



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 426

[Docket No. SSA-2020-0002]

RIN 0960-AI54

Rescission of Rules on Improved Agency Guidance Documents

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are rescinding our rules on improved agency guidance documents. We published the rules pursuant to an Executive order (E.O.) entitled, “Promoting the Rule of Law Through Improved Agency Guidance Documents,” signed October 9, 2019. The October 2019 E.O. has been revoked by an E.O. entitled, “Revocation of Certain Executive Orders Concerning Federal Regulation,” signed January 20, 2021. We are rescinding these rules because the January 2021 E.O. requires the heads of Federal agencies to take steps promptly to rescind any regulations that implement or enforce the October 2019 E.O.

DATES: This final rule will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jennifer Dulski, Office of Regulations and Reports Clearance, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-2341. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: On August 20, 2020, we published a final rule, “Improved Agency Guidance Documents,” in the *Federal Register*.¹ This final rule, which had an effective date of September 21, 2020, added 20 CFR part 426 to our regulations to implement E.O. 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.”²

On January 20, 2021, the President issued E.O. 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation.”³ E.O. 13992 revoked several E.O.s, including E.O. 13891, and directed heads of agencies to “promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the [revoked] Executive Orders.” Because we promulgated the final rule, “Improved Agency Guidance Documents,” to implement E.O. 13891, we must now rescind this rule.

We are removing from our regulations and reserving 20 CFR part 426, consisting of §§ 426.5 through 426.25. The regulations that we are removing set forth the definition of “guidance document” in E.O. 13891, discuss the nonbinding nature of guidance documents, set forth procedures to request withdrawal or modification of guidance documents, and set forth additional requirements and procedures for significant guidance documents as prescribed by E.O. 13891. In addition, we will remove the website we created to comply with the requirements of E.O. 13891 (www.ssa.gov/guidance). Although we will remove the site at www.ssa.gov/guidance, the documents that are referenced and linked on that site—such as Social Security rulings, the Program Operations Manual, the Hearings, Appeals and Litigation Law manual, and Chief Judge Bulletins—will still be publicly available on our website, www.ssa.gov.

¹ 85 FR 51337.

² 84 FR 55235 (October 15, 2019).

³ 86 FR 7049 (January 25, 2021).

RULEMAKING ANALYSES AND NOTICES

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. Under 5 U.S.C. 553 (b)(3)(A), agencies are not required to provide prior notice and opportunity for the public to comment for a rule that is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. When we published our final rule, “Improved Agency Guidance Documents,” we explained that it was exempt from the requirement to provide prior notice and opportunity for public comment because it was a rule of “agency organization, procedure, or practice” that merely explained our processes to implement E.O. 13891.⁴ For the same reason, we find this rule is exempt from the requirement to provide prior notice and opportunity for public comment because it is, likewise, a rule of “agency organization, procedure, or practice.” It merely explains we will no longer follow the processes and procedures prescribed by the revoked E.O. 13891.

E.O. 12866, as Supplemented by E.O. 13563

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under E.O. 12866 and is not subject to OMB review.

E.O. 13132 (Federalism)

⁴ 85 FR at 51338.

We analyzed this final rule in accordance with the principles and criteria established by E.O. 13132, and determined that the final rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this final rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities, because it affects individuals or States only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

The rescission of this final rule does not create any new or affect any existing collections and, therefore, does not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.006 Supplemental Security Income)

List of Subjects in 20 CFR Part 426

Guidance, Social Security.

The Commissioner of Social Security, Andrew Saul, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the Federal Register.

Faye I. Lipsky,
Federal Register Liaison,
Office of Legislation and Congressional Affairs,
Social Security Administration.

PART 426 [REMOVED AND RESERVED]

For the reasons set out in the preamble, and under the authority of E.O. 13992, we remove and reserve part 426, consisting of §§426.5 through 426.25.

[FR Doc. 2021-08113 Filed: 4/20/2021 8:45 am; Publication Date: 4/21/2021]